

REMARKS

Pursuant to the Decision on Appeal mailed December 4, 2008, the present Amendment and Response to Decision on Appeal has been filed with a Request for Continued Examination (RCE). Claims 1-8, and 10-20 have been rejected by the Decision on Appeal. After entry of the present Amendment and Response to Decision on Appeal, claims 1-8, and 10-20 remain pending. Independent claims 1, 11, and 12 have been amended to clarify the scope of the claimed inventions, and reconsideration of the application is respectfully requested.

Claim Rejections Under 35 U.S.C. § 103

Claims 1-3, 5-8, 10-15, and 17-19 were rejected under 35 U.S.C. §103(a) as being obvious over Muftic, U.S. Patent 5,850,442 (“Muftic”), PR Newswire, and Booker. Claims 4, 16, and 20 were rejected as being obvious over *Muftic* in view of PR Newswire, Booker, and U.S. Patent 5,987,498 (“Athing”).

By the present amendment and response, independent claims 1, 11, and 12 have been amended to clarify the scope of the claimed inventions of claims 1, 11, and 12. In particular, claim 1 has been amended to clarify that the claimed invention of claim 1 can include the elements “wherein the transaction device does not utilize any merchant service provider proprietary software or any merchant service provider proprietary network for the transaction information to be processed to obtain authorization from the merchant service provider for the transaction” and “wherein the transaction device can process a charge card, a credit card, and a debit card” (underlining supplied). Independent claims 11 and 12 have been similarly amended. These amendments are fully supported by the Applicant’s specification at least at page 2, lines 12-14, and at page 4, lines 19-22 which state that:

Because neither a proprietary operating system nor a proprietary network are required, this method is less costly than prior methods that involve such systems.

The card reader is preferably configured to read magnetic strip cards as well as smart cards so that the terminal 10 can accommodate all types of charge cards, credit cards, debit cards and the like.

Neither *Muftic*, *PR Newswire*, or *Booker* disclose or suggest these amended elements. For example, the amended element “wherein the transaction device can process a charge card, a credit card, and a debit card” is neither disclosed or suggested by the cited references. *Muftic* appears to relate to smart cards or PCMCIA cards (see Col. 1, lines 18-22); *PR Newswire* appears to relate to smart cards (see first sentence, first paragraph); and *Booker* appears to omit any reference to any type of card. Even *Athing*, U.S. Patent 5,987,498, cited by the Decision on Appeal against dependent claim 17 of the Applicant’s application appears to only relate to credit cards (see FIGs. 5, 11, and 20).

In addition, the amended element “wherein the transaction device does not utilize any merchant service provider proprietary software or any merchant service provider proprietary network for the transaction information to be processed to obtain authorization from the merchant service provider for the transaction” is neither disclosed nor suggested by the cited references. While *Muftic*, *PR Newswire*, and *Booker* appear to relate to various types of open networks or standards and / or nonproprietary wide area networks, none of these references specifically disclose the amended element “wherein the transaction device does not utilize any merchant service provider proprietary software or any merchant service provider proprietary network for the transaction information to be processed to obtain authorization from the merchant service provider for the transaction”. The combination of the cited references would not suggest the amended element since *Booker* relates to reservation and database systems rather than card transaction systems. *Booker* relates to the use of a nonproprietary wide area network for reservation and database systems, and such a network is not mentioned as being suitable for card transactions, which is the subject of the Applicant’s claimed inventions. For at least the reasons provided above, amended independent claims 1, 11, and 12 are believed to be allowable over the cited references.

Furthermore, dependent claims 2-8, 10, and 13-20 are ultimately dependent from at least one of amended independent claims 1, 11, or 12, for which arguments of patentability have been

presented above, and if the independent claims are allowable over the cited reference, the corresponding dependent claims should also allowable over the cited references.

CONCLUSION

It is not believed that extensions of time or fees for addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 19-5029.

Respectfully submitted,

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